

UNITED STATES DISTRICT COURT

(Local Form 3/06 lrh)

Northeastern Division—District of North Dakota

ORDER OF DETENTION PENDING DECISION ON PETITION

United States of America vs. Earland R. McKay

Case No. 2:02-cr-86

Defendant is charged with violating certain conditions of his supervised release. The government moved for detention pending a decision on the allegations of the petition.

Federal Rule of Criminal Procedure 32.1(a)(6) provides that decisions on release pending a decision in revocation matters are governed by 18 U.S.C. § 3143(a). Defendant has the burden to establish proof by clear and convincing evidence that defendant will not flee or pose a danger to the community or any other person.

FINDINGS

The petition alleges defendant violated conditions of supervised release.

After consultation with counsel, Earland McKay signed a “Waiver of Detention Hearing,” which states that he understands his right to a hearing on the government’s motion for detention pending a decision on the pending petition, and that he has voluntarily chosen to waive that right. This Court therefore concludes that Defendant has not met the burden established by 18 U.S.C. § 3143(a).

DIRECTIONS REGARDING DETENTION

Defendant is committed to the custody of the Attorney General or his designated representative for confinement in a corrections facility. Defendant shall be afforded a reasonable opportunity for private consultation with defense counsel. On order of a court of the United States or on request of an attorney for the Government, the person in charge of the corrections facility shall deliver defendant to the United States Marshal for the purpose of an appearance in connection with a court proceeding.

Dated this 22nd day of January, 2008.

/s/ Alice R. Senechal

Alice R. Senechal, U.S. Magistrate Judge